

Waterways and Wetlands Protection

Clean, clear water, abundant fish and wildlife and natural scenic beauty draw people to Wisconsin's lakes and rivers to live or visit. Wetlands, plants and fallen trees in the shallow water and along the shoreline are critical to conserving our clean waters and the fishing, swimming and boating they support. WDNR is the state agency charged with protecting Wisconsin's waterways that belong to all citizens. Successful balancing of the public's rights to enjoy these waters with property owners' rights to access the water and use their land helps ensure Wisconsin's waterways and wetlands are protected for all citizens.



Left to right: Tom Bernthal, Wetland Ecologist, and Water Resource Management Specialist, Brick Fevold, conduct sampling for macroinvertebrates in pond/wetlands. WDNR Photo.

Success Story: Updated Shoreland Rules Bring Better Protection for Lakes and Rivers

Shorelands are the areas where land meets water in lakes, rivers, and streams. Wisconsin has a long tradition of protecting shorelands because of their significant role in providing natural scenic beauty, habitat for diverse plant and animal species and protecting water quality by filtering runoff. Since the late 1960's, state statutes and minimum standards in Chapter NR 115, Wis. Adm. Code, have provided a regulatory framework, requiring each county to manage shoreland development for the lands within 300 feet of a river or stream, and within 1000 feet of a lake. Forty years after they were first adopted, important revisions to Wisconsin's shoreland development rules in ch. NR 115 went into effect on February 1, 2010, supporting our continued Public Trust Doctrine mission to protect and restore Wisconsin's water resources. Learn more about the Public Trust Doctrine at: <http://dnr.wi.gov/org/water/wm/dsfm/shore/doctrine.htm>.



Access to water recreation is created with preservation of natural vegetation and shoreline. WDNR Photo.

An extensive rulemaking process of more than seven years included a Citizens Advisory Committee, statewide listening sessions, two rounds of public hearings, focus groups, input from the Natural Resources Board and legislators, and thousands of public comments. The revisions incorporated new science and innovative approaches to zoning regulations to better protect Wisconsin lakes and rivers, allow shoreland property owners more flexibility, and make the rules easier for counties to administer. The updated minimum standards in ch. NR 115 apply to all unincorporated areas and are administered by each county. County governments now have two years to update their local zoning ordinances to be consistent with the revised state rules. Learn more about shoreland development rules at: <http://dnr.wi.gov/org/water/wm/dsfm/shore/news.htm>.

Maintaining a more natural shoreline is a protection goal.

Major changes in the shoreland development rules provide tangible benefits to Wisconsin's waters by protecting water quality and habitat and help counties more efficiently handle permits. These changes include new limits on the amount of "impervious surfaces" - such as roofs and pavement - on properties within 300 feet of lakes or rivers, and requirements for property owners to do "mitigation" such as planting shoreline vegetation or installing rain gardens to offset impacts when they do future development. The long-time 75-foot setback and minimum lot sizes remain unchanged in the rules, but standards for cutting vegetation near the water were clarified to preserve habitat and natural scenic beauty.

Protecting shorelands starts with buying the right property, understanding how current shoreland development rules affect what you can do there, and putting into practice those simple steps that can help. Homeowner and citizens can find resources and learn more about protecting lakes and streams at: <http://dnr.wi.gov/org/water/wm/dsfm/shore/>.

Sizing-up Pier Regulations

Lakes and rivers belong to everyone in Wisconsin – this is another feature of the Public Trust doctrine. Waterfront owners have a reasonable right to a pier, but it is not an unlimited right and not above the public's interest in public waters. Large piers can impact fish and aquatic life and interfere with boating and swimming. In 2008, changes to Chapter 30, Stats., updated size standards for piers and created a registration process for certain piers that do not meet the size standards.



Owners of large piers may need to register their piers.
WDNR Photo.

Piers do not require a WDNR permit or fee if they meet the standard dimensions, and a few other requirements. A WDNR study showed that more than 85% of all existing piers meet the existing pier standards and their owners do not need to do anything to comply with the updated regulations. Piers installed **after** February 2004 are not eligible for the registration process and must meet the size limits outlined in the "[Pier Planner](#)". If not, owners may seek an individual permit with no fee. Owners of piers that currently do not meet the "[Pier Planner](#)" have until April 1, 2011, to determine if they qualify to be grandfathered in, and to complete the registration process.

A very small number of owners of extremely large existing piers will need to go through the individual permit and review process, but the normal fee permit will be waived. Learn more about Wisconsin's Pier Regulations at: <http://dnr.wi.gov/waterways/recreation/piers.html>.

Helpful video explains how to measure piers.

Pier owners will find a variety of educational materials online to determine if their pier complies with the size standards. A factsheet, video, and interactive decision tool enable pier owners to quickly learn if their pier meets the size standards and is exempt from permitting or the registration process. The video, "[What's my Pier Size?](#)" explains how to measure a pier. To watch the video, go to: <http://dnr.wi.gov/waterways/recreation/piers.html>.

Waterway Permits Prevent Damage and Conflicts

The role of water regulations are to protect public rights and interest in Wisconsin by ensuring that projects in and adjacent to the water will not cause harm to fish and wildlife habitat, natural scenic beauty, water quality, recreation or to neighboring property owners. Conflicts can arise between the many different users of Wisconsin's waterways. Permits are one mechanism the state uses to protect lakes and streams for all users, and maintain the quality of life and vibrant recreational and tourism economy our water resources provide.



Improper construction in this waterway has damaged the streambed. Waterway permits help prevent this type of destruction. WDNR Photo.

Waterway Permits (continued)

WDNR staff administer permit requirements for a variety of activities located in or near waterways, including the construction of bridges, dams and other structures, and dredging lake or river sediment. Permit conditions are developed after thorough review of project plans and sites, so that potential project impacts are minimized during construction. Most of the physical alterations to navigable waters which require permits are listed in the table below. Learn more about these permits at:

<http://dnr.wi.gov/waterways/>.

The WDNR's Floodplain Management Program and Dam Safety Program also provide protection of waterways, people and property from unwise floodplain development and unsafe dams. Read more about floodplain mapping, dam safety and inspections, and dam removal grants in the "Public Safety and Emergency Response" section of this report.



Steve LaValley, Water Regulations and Zoning Specialist, performs a navigability determination that is occasionally necessary to establish possible permit requirements. WDNR Photo.

**WATERWAY AND WETLAND PERMITS:**

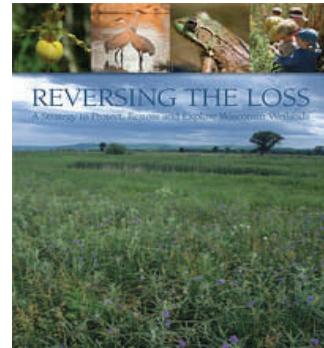
Lake shore changes and erosion control projects require a waterways permit. WDNR Photo.

Construction	Recreation	Shoreline & Habitat	Water Levels % Crossings
<ul style="list-style-type: none"> • Cranberry Projects • Dams • Dredging • Dry Hydrants • Grading • Intake/Outfall Structures • Nonmetallic Mining • Pilings • Ponds • Other Structures 	<ul style="list-style-type: none"> • Beach Maintenance • Boathouse Repair • Boat Ramp & Landings • Boat Shelter • Buoys • Pea Gravel Blanket • Piers, Docks and Wharves • Swimming Rafts • Water Ski Platforms 	<ul style="list-style-type: none"> • Aquatic Plant Control • Beach Maintenance • Beaver Damage Repair • Cranberry Projects • Fish or Wildlife Habitat • Lake Shore Erosion Control • Streambank Erosion Control • Stream Realignment • Wetlands 	<ul style="list-style-type: none"> • Bridges • Culverts • Dams • Fords • Withdrawals & Irrigation • Lake Levels • Temporary In-Stream Crossing • Utility Waterway Crossing

Success Story:

Wetland Strategy: Reversing the Loss

Historically, wetlands were viewed as wastelands and obstacles to development. Nearly 50% (4.7 million acres) of the estimated 10 million acres of wetlands left by glaciers and other processes were drained and filled between the 1800s and 1970s. Now scientists see the benefits of wetlands (see sidebar below).



How should we manage and protect our remaining **5.3 million acres of wetlands** – with 75% of those wetland acres on private property? Sixteen conservation organizations and governmental agencies came together in 2008 to create a collective vision for managing Wisconsin's wetlands. "[Reversing the Loss - A Strategy to Protect, Restore and Explore Wisconsin Wetlands](#)" charts a course these Wisconsin Wetland partners will follow to achieve that collective vision. The strategy identifies eight goals for protecting and managing wetlands. Wetland partners, citizens and other organizations can focus their efforts on one or more of the eight strategic goals to help prevent the further loss of wetlands.

The Wetland Team developed the "[2008-2010 Action Plan](#)" to help guide and prioritize their work over the next two years. At the end of two years the team will evaluate progress toward achieving the plan's eight goals and prepare a biennial report summarizing accomplishments.

Learn more about the Strategy and Action Plan at:

<http://dnr.wi.gov/wetlands/strategy.html>.



Cherie Hagen, Wetlands Team Leader and Policy Coordinator, examines macroinvertebrates in this wetland. WDNR Photo.

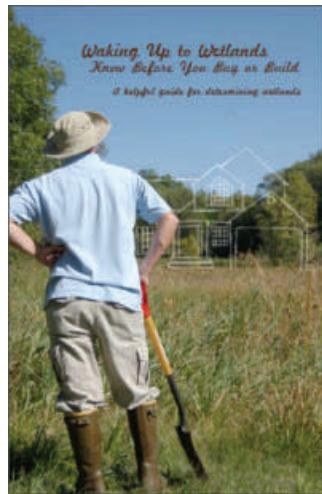
WETLAND BENEFITS FAST FACTS:

- Nurseries for fish and wildlife.
- Storage areas for storm water runoff that help reduce flooding and erosion.
- Filters for polluted water that provide treatment before it enters lakes, streams and groundwater.
- Habitat for 40% of our birds and 33% of our rare plants and animals.
- Areas for replenishing groundwater supplies.
- Buffers along shorelands that provide protection against erosion.
- Open spaces for recreation and environmental educational opportunities.

Wetland Toolkit Helps Landowners Identify Wetlands

A key step in protecting wetlands is helping landowners identify wetland areas on their property so they can avoid damaging them. Wetlands may not be filled unless they have a [water quality certification](#) from the state. The WDNR collaborated with the Wisconsin Realtors Association, the Wisconsin Wetland Association, and government organizations on the development of a citizen's wetland toolkit for property owners and prospective buyers. Components of the web-based Wetland Toolkit include:

Informational Video:
The "[Waking Up to Wetlands](#)" video takes a lighthearted look at the various steps involved in determining if there are wetlands on your property.



Wetland Indicator Map: An [online interactive map](#) shows wetlands that have been officially mapped through the Wisconsin Wetland Inventory process and areas that may be wetlands based on the soils found in federal soil maps. Officially mapped wetlands are outlined in yellow and potential wetlands are shaded in pink.

Physical Clues Checklist: WDNR wetland biologists developed a [checklist](#) of plants, soils and other clues that landowners can look for while walking a property. There are also photographs of the tree and plant species associated with wetlands and other wetland clues.

Real Estate Addendum: The [Real Estate Addendum is a legal document](#) that can be filed as an addendum to an offer to purchase. It allows buyers an opportunity to verify that wetlands are present on a property and to negotiate a mutual remedy with the seller, which might include the ability to rescind or modify the offer terms, if wetlands are confirmed.

Since their launch on Oct. 28, 2008, these online informational tools have helped thousands of Wisconsin property owners and prospective buyers identify wetlands on properties they want to buy or build on, often when wetlands are not readily apparent. Landowners can then take appropriate steps to protect those wetlands from damage or destruction. Learn more about the wetland toolkit at: <http://dnr.wi.gov/wetlands/locating.html>.

Wetland Restoration Maps

The WDNR, the Wisconsin Wetlands Association and biologists with the U.S. Department of Agriculture's Natural Resource Conservation Service (NRCS) have partnered with landowners to provide technical and financial help in restoring, enhancing and managing wetlands. Learn more about wetland restorations at: <http://dnr.wi.gov/wetlands/restoration.html>.



Pat Trochlell, Chief Wetland Ecologist, provides technical training on wetland plants during a fieldtrip. WDNR Photo.

The WDNR also provides public access to information on wetland maps and potentially restorable wetlands. Potentially restorable wetlands are areas identified as likely historic wetlands but are not currently mapped as wetlands because they are in agricultural use. In addition, this information can be used for watershed or landscape level analysis to characterize historic loss and relative need for wetland restoration. See page 7 for information on the database tool.

Wisconsin Act 373 Requires Wetland Notification and Identification

Wisconsin Act 373, enacted by the legislature in May 2010, requires local municipalities to:

- Include a notice on local building permit forms regarding the consequences of not complying with wetland laws; and
- Inform applicants of their responsibility to comply with state and federal laws involving construction near or on wetlands, lakes or rivers.

The WDNR furnishes informational brochures about wetlands laws to local municipalities to support this notification requirement. The WDNR is required to create and implement a fee-based Wetland Identification Program. Four new positions - one permanent and three 4-year project - are appropriated to WDNR to run the program. The WDNR wetland determinations under this program are required to be added to wetland maps.

A property owner can request one of three services from the WDNR for a fee:

- Wetland Map Review (\$50).
- Wetland Identification (on-site verification of wetland presence or absence, not a delineation) (\$300/acre, 5-acre cap).
- Wetland Delineation Concurrence (confirmation of wetland boundary identified by a third party) (\$300/20 acres).

The WDNR is developing an implementation plan to create the program, negotiate a Memorandum of Understanding (MOU) with the Army Corps of Engineers and hire staff. The WDNR is required to develop a MOU with the U.S. Army Corps of Engineers prior to offering the Wetland Delineation Concurrence service. Depending on when positions can be hired, these services will be offered to property owners in late 2010 or early 2011.

Wisconsin Act 391 Requires a Wetland Restoration General Permit

Wisconsin Act 391, enacted by the legislature in May 2010, authorizes the WDNR to issue a general permit for certain wetland restoration activities that are sponsored by federal agencies, in lieu of issuing certain waterway, wetland and dam permits or approvals. The bill allows the WDNR to create a new general permit through an administrative process, rather than by administrative rule. The general permit will be drafted by the WDNR and will be public-noticed with the opportunity for certain interested persons to request a public hearing. The final general permit will be issued for a period of five years with renewal every five years.

The WDNR is drafting the general permit and conditions, in coordination with federal partners, for public noticing. State and federal staff training will be conducted during winter 2010-2011. The general permit is expected to be available for authorizing eligible federal wetland restoration projects by early 2011.

WETLAND AND WETLAND INDICATOR MAPS DATABASE TOOL:

The Surface Water Data Viewer provides the public access to mapped wetland and potential wetland information. A Wetland and Wetland indicator theme helps users determine if wetlands may be present at a site. The Wetland Indicators Map shows soils mapped by the NRCS in the drainage classes of somewhat poorly, poorly and very poorly drained soils. Soils mapped within these drainage classes are soil types typically found within areas designated as wetlands. Therefore, this map layer can be used to identify potential wetlands. See:

[http://dnrmmaps.wisconsin.gov/imf/imf.jsp?
site=SurfaceWaterViewer](http://dnrmmaps.wisconsin.gov/imf/imf.jsp?site=SurfaceWaterViewer).

Click on the “Theme” tab and select the Wetland and Wetland Indicator layer.